

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: May 24, 2011

SUBJECT: Action Required
Authorization to file suit
Paul H. Freeman, as Trustee and all other appropriate parties –
Enforcement Action for properties located in Sections 23-26,
Township 38 South, Range 40 East, Palm City, Martin County,
Florida ("Property")

Background

This is a request to file suit to resolve violations involving the conversion of approximately 94 acres of previously-permitted agricultural land to 12 single family lots; the modification and operation of a surface water management system, including the excavation of a lake and installation of swales; and the construction of roads, without first obtaining a modification to the existing surface water management permit number 43-00075-S ("Permit"). The Permit was originally issued to Langford Grove in 1977 for the operation of a water management system for agricultural lands with discharge into a Florida Turnpike drainage ditch. On May 12, 2004, Paul Freeman submitted an application to modify the Permit, which remains incomplete.

In the meantime, Mr. Freeman began subdividing and selling single-family lots on the Property. To date, Mr. Freeman has sold 12 single family lots to 12 different owners. These single family lots are discharging into the unpermitted surface water management system. Therefore, the District is seeking the following relief: that Mr. Freeman complete the Permit modification application, submit a construction certification completion form, and grant a Conservation Easement over the preserve area. Prior to Permit transfer, the existing homeowners must form a homeowners' association prior to submitting a conversion transfer form to the District to have the Permit transferred to the association for operation and maintenance of the surface water management system.

Numerous attempts have been made by District staff to resolve these violations including the issuance of an investigative notice, a Notice of Violation, Settlement Letter and a draft Consent Order to Mr. Freeman. The District has also sent Mr. Freeman 5 Requests for Additional Information (RAIs) on his Permit application and has granted 3 extensions of time to respond to RAIs. The single-family lot owners were copied on the Notice of Violation sent to Mr. Freeman.

How this helps meet the District's 10 year Strategic Plan

This effort directly supports the District's land resources mission.

Funding Source

This litigation will be handled by the District's Office of Counsel. Any costs associated with this litigation will be paid from budgeted ad valorem funds that may be subsequently recovered as part of the circuit court proceedings.

This Board item impacts what areas of the District, both resource areas and geography?

The subject property is located in Martin County and the unpermitted works impact surface water flow on the Property, which affects the District's management of surface waters.

What concerns could this Board item raise?

If this matter is not resolved, the unauthorized works could continue.

Why should the Governing Board approve this item?

The Governing Board should approve this item to resolve the construction and operation of works without the required permit and to take appropriate action against all responsible parties.

If you have any questions, please do not hesitate to call me at extension 6976.

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